In The Senate of the United States

Sitting as a Court of Impeachment

In re:	)
Impeachment of G. Thomas Porteous, Jr.,	)
United States District Judge for the	)
Eastern District of Louisiana	)

THE HOUSE OF REPRESENTATIVES' MOTION TO ADMIT TRANSCRIPTS AND RECORDS FROM PRIOR JUDICIAL AND CONGRESSIONAL PROCEEDINGS

Pursuant to the Senate Impeachment Trial Committee's June 21, 2010 Scheduling Order, the House of Representatives (the "House"), through its Managers and counsel, respectfully moves that the Senate Impeachment Trial Committee admit into evidence transcripts and records from (i) the Fifth Circuit Judicial Council Special Committee hearing (the "Fifth Circuit Hearing"), held on October 29-30, 2007, and (ii) the House of Representatives Impeachment Task Force hearings (the "Task Force Hearings") held on November 17-18 (Creely, Amato and Mole), December 8 (Lightfoot and Horner), and December 10, 2009 (Louis Marcotte and Lori Marcotte), which related to the possible impeachment of Judge Porteous. In both sets of proceedings, Judge Porteous, personally and through counsel, was permitted the opportunity to cross-examine witnesses, and both sets of proceedings presented the same factual issues that are the bases for the Articles of Impeachment. Admission of these materials – including materials that are in the public record – will provide the Senate a complete record of all sworn testimony, and will permit the focusing of issues at trial. In support of this motion, the House respectfully submits:

I. THE FIFTH CIRCUIT SPECIAL COMMITTEE HEARING AND THE PROCEEDINGS BEFORE THE HOUSE IMPEACHMENT TASK FORCE

A. FIFTH CIRCUIT HEARING OF OCTOBER 29-30, 2007

On October 29-30, 2007, the Fifth Circuit Special Investigatory Committee held a disciplinary hearing pursuant to a complaint and notice to Judge Porteous. The complaint set forth allegations that substantially overlap the allegations in Impeachment Articles I and III involving, respectively, (i) Judge Porteous's relationship with attorneys Creely and Amato and his handling of the Liljeberg case, and (ii) his handling of his 2001 bankruptcy. Judge Porteous attended that hearing, heard the witnesses, had the same motive to cross-examine them and elucidate facts as he has in the present proceeding, in fact cross-examined the witnesses, and called his own witnesses.[1] In addition, Judge Porteous agreed to the admission of numerous documentary exhibits – including evidence that has been marked as exhibits by the House for the Impeachment trial – and agreed to stipulate to the admission of grand jury testimony of certain individuals who were not called as witnesses. For example, Judge Porteous participated in the following colloquy concerning the admissibility of certain witness transcripts:

> Judge Porteous: I intended to call - well, first, do you want to get into the stipulations?
>
> Mr. Woods: Sure.
>
> Judge Porteous has agreed to stipulate to the grand jury testimony of Leonard Levenson and Chip Forstall rather than we calling them as

[1]On October 29, 2007, the following witnesses testified: FBI S/A Dewayne Horner, Judge Porteous, Joseph Mole, Robert Creely, and Jacob Amato, Jr. On October 30, 2007, the following witnesses testified: Edward Butler, S/A Horner (recalled), FBI Financial Analyst Gerald Fink, former Bankruptcy Judge William Greendyke, Bankruptcy Trustee William Heitkamp, and Rhonda Danos. Judge Porteous then called Claude Lightfoot and Donald Gardner as his own witnesses.

witnesses. And I believe he's agreed also to stipulate to the 302, or the FBI memorandum of interview, of SJ Beaulieu.

Judge Porteous: With attached correspondence.

Mr. Woods: And with attached correspondence. Rather than us calling Beaulieu, the trustee.[2]

Similarly, the following discussion occurred relative to the admission of exhibits 1 through 96:

Mr. Woods: ... And just for purposes of the record, we would like everything on the exhibit list to be offered and admitted into evidence.

And Judge Porteous has some objections he wants to raise as to the grand jury testimony.

Chief Judge Jones: All right.

Judge Lake: So, 1 through 96, you're offering?

Mr. Woods: Yes, your Honor.

Judge Porteous: Only two objections in general. One is to the admissibility of those grand jury transcripts. People have come in and testified. Now, the ones that are stipulated to, obviously they'll go in, Mr. Levenson -

Mr. Woods: Forstall.

Judge Porteous: - Forstall, and Mr. Beaulieu, which is a 302. But the others, I would object to.[3]

After a further colloquy that established that Judge Porteous had been provided the grand jury testimony that was included on the exhibit list in advance of the Hearing (including the testimony of Mr. Creely, Mr. Amato and Ms. Danos), Judge Jones admitted that

[2]Fifth Cir. Hearing at 341.

[3]Id. at 426-27.

grand jury testimony, though she indicated, in substance, that the Special Committee would not be relying on it.[4] With that understanding, all the exhibits were admitted.

B. THE HOUSE IMPEACHMENT TASK FORCE HEARINGS OF NOVEMBER AND DECEMBER 2009

The House Committee on the Judiciary Impeachment Task Force, chaired by House Manager Schiff, held four hearings in November and December of 2009. At the first hearing, on November 17-18, Mr. Amato, Mr. Creely and Mr. Mole testified and were subject to cross-examination by Judge Porteous's counsel. In advance of that hearing, copies of Mr. Creely's and Mr. Amato's Task Force deposition testimony were provided to counsel.[5] On December 8, Judge Porteous's bankruptcy attorney, Mr. Lightfoot, testified (along with other witnesses, including FBI Special Agent Horner), and the Task Force provided counsel Mr. Lightfoot's deposition. Judge Porteous had previously called Mr. Lightfoot as his own witness before the Fifth Circuit, and Judge Porteous's attorney was present for that hearing and had the opportunity to cross-examine Mr. Lightfoot, but declined to ask questions. Finally, on December 10, 2010, Louis Marcotte and Lori Marcotte testified. Judge Porteous was present, and his attorney was notified in advance of that hearing that he would be given the opportunity to examine the witnesses, but no attorney for Judge Porteous appeared at that hearing. As Mr. Schiff stated on the record at the outset of that hearing: "Judge Porteous's counsel was again afforded the opportunity to question the witnesses but has opted not to question the

[4]Id. at 430. A copy of the Fifth Circuit Special Committee exhibit list is attached as "Attachment 1."

[5]Mr. Mole had not been deposed.

witnesses today. Judge Porteous is present with us this morning."[6] Throughout the Hearings, though the House operated on a "five minute rule" for Members, Mr. Westling was initially provided ten minutes to cross-examine the witnesses, and whenever he sought additional time (which he did on two occasions), such time was granted to him by Task Force Chairman Schiff without any time limitation.[7]

The House seeks the introduction of the transcripts and evidence from these two proceedings, so that the Senate will have a complete record of the witnesses' testimony, especially where some of the trial testimony will occur nearly 3 years after the Fifth Circuit testimony, and, in some instances, where that testimony relates to conduct that occurred in the early 1990s. As noted, Judge Porteous has had a chance to cross-examine all the witnesses, and indeed personally cross-examined some of them (as did his counsel in the House Impeachment Task Force Hearings). Further, there are circumstantial guarantees of trustworthiness of much of the testimony – Judge Porteous has admitted much, if not nearly all, the conduct at issue, but has simply taken issue with proof of intent or the significance of his conduct on the issue of whether he should be impeached.[8]

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[6]To Consider Possible Impeachment of United States District Judge G. Thomas Porteous, Jr., (Part III), Hearing Before the Task Force on Judicial Impeachment of the Committee on the Judiciary, Ser. No. 111-45, Dec. 10, 2009, 111th Cong., 1st Sess., 3.

[7]See To Consider Possible Impeachment of United States District Judge G. Thomas Porteous, Jr., (Part I), Hearing Before the Task Force on Judicial Impeachment of the Committee on the Judiciary, Ser. No. 111-43, Nov. 18, 2009, 111th Cong., 1st Sess., 189 (Mr. Westling: "Mr. Chairman, I am noticing my light is on. Could I have a few more moments?" Mr. Schiff: "Yes, of course, Counsel."); To Consider Possible Impeachment of United States District Judge G. Thomas Porteous, Jr., (Part IV), Hearing Before the Task Force on Judicial Impeachment of the Committee on the Judiciary, Ser. No. 111-46, Dec. 15, 2009, 111th Cong., 1st Sess., 51 (Mr. Westling: "Mr. Chairman, I note my light is on. May I proceed." Mr. Schiff: "Of course.").

[8]Judge Porteous's own testimony at the Fifth Circuit Hearing provides additional assurance as to the reliability of the witness testimony at issue in this Motion. As noted

The House recognizes some of the testimony may, at the end of the day, be duplicative of some of the live testimony. It is not possible to identify such testimony line by line at this time, nor is it necessary to do so. If the witness testifies consistently with prior testimony, that fact may itself be relevant to the evaluation of the witness's credibility, and by admitting the prior testimony the Senate will have a complete record of what these witnesses have stated under oath at all prior proceedings. Decisions as to the weight of the evidence are ultimately left to the individual Senators, who are certainly capable of understanding the distinction between prior and live testimony, or testimony subject to cross-examination then and now. Moreover, by having the prior evidentiary record available and admissible, the House is confident that the trial will be expedited and focused on the most critical issues.

II. RULES OF EVIDENCE IN IMPEACHMENT TRIALS

The "Procedure and Guidelines for Impeachment Trial in the United States Senate" (the "Senate Impeachment Procedures")[9] provide, at Rule VII, that "the Presiding Officer [of the impeachment trial] may rule on all questions of evidence including, but not limited to, questions of relevancy, materiality, and redundancy of evidence and incidental questions." Under Rule XI (which provides for the establishment of a Committee to hear the evidence in an impeachment case), the Chairman of the Rule XI Committee shall "exercise all the powers and functions conferred upon the Senate and the Presiding Officer of the Senate, respectively, under the rules of procedure and

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in the companion motion filed in this Impeachment proceeding, Judge Porteous made numerous statements in which he confirmed the substance of the testimony of various of the witnesses at that hearing. See House of Representatives' Notice of Intent to Introduce at Trial Judge Porteous's Testimony Before the Fifth Circuit Special Committee.

[9]Senate Doc. 99-3, 99th Cong., 2d Sess. (1986).

practice in the Senate when sitting on impeachment trials." The Senate Impeachment Procedures do not limit the Presiding Officer to any set of evidentiary rules, and, as a practical matter, provide the Presiding Officer substantial discretion in the admission of evidence.

Moreover, it is well established that the Federal Rules of Evidence or other strict rules of evidence have no place in impeachment proceedings. In 1989, the Senate Committee on Rules and Administration issued a Report that addressed various impeachment issues arising in the Hastings Impeachment proceedings, including a section that explained why the Federal Rules of Evidence did not pertain to impeachment trials.[10] In rejecting adoption of the Federal Rules of Evidence, the Report stressed that "[a] Senate vote is the ultimate authority for determining the admissibility of evidence" and cited a legal scholar for the proposition that if the Rules of Evidence were adopted "'[i]t is not hard to imagine a trial governed by a detailed body of rules becoming bogged down in technical disputes, with the ascertainment of facts the victim.'"[11] The Report cited Yale Professor Charles Black in support of the proposition that "technical rules of evidence designed for juries have no place in the impeachment process"[12] and concluded:

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[10]Procedure for the Impeachment Trial of U.S. District Judge Alcee I. Hastings in the United States Senate, Report of the Senate Committee on Rules and Administration to Accompany S. Res. 38 and S. Res. 39, Rpt. 101-1, 101st Cong., 1st Sess. (1989) at 111-12. That portion of the Report is attached as "Attachment 2."

[11]Id. (quoting S. Burbank, "Alternative Career Resolution: An Essay on the Removal of Federal Judges," 63 Ky. L.J. 643, 692 (1988)).

[12]The Report quoted the following from Professor Black's treatise on Impeachment:

> Both the House and the Senate ought to hear and consider all evidence which seems relevant, without regard to technical rules. Senators are in any case continually exposed to "hearsay" evidence; they cannot be sequestered and kept away from newspapers like a jury. If they cannot be

"The Senate must retain its freedom to review evidence issues as they present themselves. The Senate should not restrict itself unnecessarily by making its decisions in a vacuum, before the trial has even begun."[13]

These evidentiary principles were reiterated by the Hastings Trial Committee, which likewise explicitly rejected formal rules of evidence. In disposing of various legal motions, that Committee stated:

> Sixth, the parties have expressed an interest in the evidentiary principles that will govern these proceedings. The committee's task is to receive and report evidence to the Senate. The Senate reserves the power to determine the competency, relevancy, and materiality of the evidence received by the committee. The committee is not bound by the Federal Rules of Evidence, although those rules may provide some guidance to the committee. Members of the Senate sit both as judges of law and fact. Precise rules of evidence are not needed in an impeachment trial to protect jurors, lay triers of fact, from doubtful evidence. In the end, the task of members of the Senate will be to weigh the relevance and quality of the evidence.[14]

In short, the Senate Impeachment Trial Committee has discretion to admit the records of prior proceedings related to Judge Porteous, and, "[i]n the end, the task of members of the Senate will be to weigh the relevance and quality of the evidence."[15]

> trusted to weigh evidence, appropriately discounting for all the factors of unreliability that have led to our keeping some evidence away from juries, then they are not in any way up to the job, and "rules of evidence" will not help.

Id. (citing Black, C., Impeachment: A Handbook (1974) at 18 (emphasis in original)).

[13]Id.

[14]Disposition of Pretrial Issues, April 14, 1989, p. 13, published in Report of the Senate Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings, S. Hrg. 101-194, Pt. 1 at 293 (1989) [hereinafter Judge Hastings Senate Impeachment Report Pt. 1]. That "Disposition" is attached as "Attachment 3."

[15]Id.

III. IMPEACHMENT PRECEDENT ESTABLISHES THAT RECORD EVIDENCE FROM PRIOR PROCEEDINGS IS ADMISSIBLE IN IMPEACHMENT TRIALS

In the Claiborne, Nixon, and Hastings Impeachment proceedings, the respective Senate Trial Committees accepted record evidence from prior evidentiary proceedings into evidence.

The Judge Claiborne Impeachment Proceedings. In the Claiborne Impeachment proceeding, the House sought by motion to introduce select transcripts from Judge Claiborne's second trial.[16] In granting the House's motion, Trial Committee Chairman Mathias stated that "Judge Claiborne may offer an objection to any particular item of evidence from his second trial if there is a basis for objection other than the fact that prior testimony or exhibits are being used to establish the truth of the matters asserted."[17] In other words, Judge Claiborne was permitted to raise objections to the transcripts other than the fact that the transcripts were hearsay, i.e., that they were to be used for "the truth of the matters asserted." Chairman Mathias went on to note the significance of the fact that the testimony at issue had been subject to cross-examination: "We will only be using for our own fact-finding purposes sworn testimony taken in the presence of Judge Claiborne and subject to his counsel's examination or cross-examination."[18]

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[16]See [The House of Representatives'] Motion to Accept as Substantive Evidence Certain Testimony and Documents, In re: Impeachment of Judge Harry E. Claiborne, reprinted in Report of the Senate Impeachment Trial Committee, Hearings before the Senate Impeachment Trial Committee, United States Senate, S. Hrg. 99-812, 99th Cong., 2d Sess. (1986) at 297 [hereinafter Judge Claiborne Senate Impeachment Report].

[17]Proceedings of the Claiborne Impeachment Trial Committee, Sept. 10, 1986 (statement of Sen. Mathias), printed in Judge Claiborne Senate Impeachment Report at 110.

[18]Id. Although Chairman Mathias further noted that the facts contained in the testimony appear not to have been the "subject of controversy," id. at 110-11, that observation was clearly secondary to the Committee's focus on procedural fairness and the fact that the prior testimony was subject to the opportunity for cross-examination.

The Judge Nixon Impeachment Proceedings. Similarly, in the Judge Nixon Impeachment proceeding, the House requested that the Nixon Senate Committee receive into evidence the complete trial record, representing that "key witnesses" would be called in any event.[19] As the House explained in its motion:

> With this evidence before it, the Senate Committee will be able to examine, as necessary, the complete prior testimony of key witnesses whose credibility may be at issue; the testimony of minor witnesses whose credibility is not in issue and who need not be summoned to testify in person; and all exhibits heretofore admitted into evidence, however minor. With the permission of the Committee, the House and Respondent will then be able to reserve valuable trial time for the most important evidence, and may refer to the prior record to supplement their presentation at trial and during post-trial briefing.[20]

At oral argument on this motion, House Manager Edwards stated, first, that records of the prior criminal proceedings are "public records" which "should be available to each Senator" in order to "ensure that all relevant facts are before the Senate;" second, the admission of the prior testimony "will also help to streamline the trial;" and finally, Judge Nixon would not be prejudiced for two reasons: "First, he is free to subpoena any witness he chooses for live testimony; and second, much of the trial and subcommittee record consists of Judge Nixon's cross-examination of witnesses. How can it be

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[19]The House of Representatives' Motion to Accept Prior Testimony and Exhibits, In re: Impeachment of Judge Walter L. Nixon, Jr., at 1, reprinted in Report of the Senate Impeachment Trial Committee on the Articles Against Judge Walter L. Nixon, Jr., Hearings before the Senate Impeachment Trial Committee, United States Senate, S. Hrg. 101-247, 101st Cong., 1st Sess. (1989) at 199 [hereinafter Judge Nixon Senate Impeachment Report].

[20]Id. (House Motion) at 2-3; Judge Nixon Senate Impeachment Report at 200-01.

prejudicial to admit into evidence the prior testimony of witnesses when the judge has fully exercised his right of cross-examination?"[21]

The Nixon Senate Committee accepted the House's argument and ruled in favor of admission of both the prior Nixon criminal trial record (testimony and exhibits) as well as the House Impeachment Hearing record:

> The House has moved to accept into evidence the record of all prior testimony and exhibits in its entirety. The Committee believes that introduction of the record of prior testimony and exhibits will be useful to enable the Committee to focus the live testimony that it hears on the most critical witnesses. The prior testimony has been the subject of adverse cross-examination, and its use will not prejudice any party. In accordance with the House motion and in the interest of a thorough and fair proceeding, all testimony and exhibits in Judge Nixon's criminal proceeding, including the post-trial proceeding (as requested by Judge Nixon), will be admitted, as well as all testimony and exhibits admitted in the House impeachment proceeding.[22]

The Judge Hastings Impeachment Proceedings. In the Hastings Impeachment, the issues were slightly different. The House in the Hastings Impeachment sought to introduce select testimony from Judge Hastings's criminal trial – not the full transcripts.[23]

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[21]Proceedings of the Judge Nixon Impeachment Trial Committee, July 13, 1989 (statement of Rep. Edwards), printed in Judge Nixon Senate Impeachment Report at 305.

[22][Judge Nixon] Impeachment Trial Committee Disposition of Pretrial Motions, First Order, July 25, 1989 at 5, reprinted in Judge Nixon Senate Impeachment Report at 319, 323.

[23]Judge Hastings sought to introduce the entirety of the criminal trial for the purpose of having the Senators be aware that some of the factual allegations in the Impeachment trial were the same as those that had been tried in the criminal trial at which Judge Hastings had been acquitted, and not "for truth." In response to a question from Chairman Bingaman as to why he sought the full transcript to be introduced, Judge Hastings's counsel explained he wanted the entire record to be introduced "to establish the fact that the accusations made, the first 15 articles of impeachment were in fact tried to a jury more than five years ago, and were in fact fairly tried, and there is no new evidence or no material new evidence in support of that." Proceedings of the Hastings Trial Committee, June 22, 1989, printed in Hastings Senate Impeachment Report at 836 (statement of Terence Anderson, Esq.). House Manager Bryant objected to the testimony being

By way of an Order issued July 10, 1989, the Senate Trial Committee admitted some testimony sought by the House, and denied the House's requests as to other testimony. In its Order, the Committee stated certain overarching principles:

> The Committee recognizes the general objection on the grounds of hearsay made by Judge Hastings to the receipt of any prior testimony as substantive evidence..., but as noted in the Committee's disposition of pretrial issues on April 14, 1989, neither it nor the Senate is bound in these proceedings to strict judicial rules of evidence. ... On the other hand, the Committee does not believe it appropriate to admit prior testimony into evidence on key points where credibility, context or interpretation are in dispute – particularly where the opposing party has not had an opportunity for cross-examination.[24]

Accordingly, the Committee permitted the House to introduce numerous transcripts "for truth" – those where opposing counsel had the opportunity for cross-examination and only in circumstances where the prior testimony was offered in place of a party's calling that witness in its own case.[25]

Thus, in all three proceedings the respective Senate Committees rejected application of the Federal Rules of Evidence in deciding the issue as to the admissibility of transcripts from prior proceedings and recognized the relevance of prior sworn

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introduced for this purpose, characterizing it as "in effect, a revisitation of the issue of double jeopardy, which was disposed of by a vote of 93-to-1 in the Senate, the first time the Senate took this matter up. It is an issue that has no relevance whatsoever." Id. at 837. The Hastings Senate Committee denied Judge Hastings's Motion to admit the entirety of the criminal trial record. However, because of the nature of Judge Hastings's request, the decision by the Hastings Senate Committee is not pertinent to the consideration of the House's Motion in this case.

[24][Hastings] Impeachment Trial Committee Eighth Order, July 10, 1989 at 1-2, reprinted in Report of the Senate Impeachment Trial Committee on the Articles Against Judge Alcee L. Hastings, S. Hrg. 101-194, Pt. 2A at 61-2 (1989) [Judge Hastings Senate Impeachment Report Pt. 2A]. That Order is attached as "Attachment 4."

[25]The fact that Judge Porteous will have the opportunity to cross-examine some of the witnesses on their prior testimony at the depositions further supports the admissibility of the prior testimony.

testimony to the fact-finding responsibilities of the Senate. Further, in each of the three proceedings, the respective Senate Committees, in deciding to admit prior testimony (in whole or in part) took into consideration that the opposing party had the opportunity to cross-examine the witness.

We recognize that the Hastings Senate Committee took a narrower approach than the respective Senate Committees in Nixon and Claiborne as to the admission of the records of prior proceedings involving the respective judges. However, the decision by the Nixon Senate Committee in accepting into evidence all the relevant transcripts and exhibits – from both the criminal trial and the House proceedings – is the most recent of those three and thus implicitly rejected the narrower decision in Hastings. Further, the materials associated with Judge Hastings's criminal trial were truly voluminous in contrast with the far smaller set of materials in the prior Claiborne and subsequent Nixon proceedings (and, an even smaller collection in the Fifth Circuit and House proceedings involving Judge Porteous). To the extent that the Senate Committee in this case refers to the prior Impeachment proceedings as guidance, we thus urge the Committee to follow the more expansive approach to accepting prior record evidence that was employed both with the Judge Claiborne and Judge Nixon Impeachments, especially insofar as that evidence is in the public record (i.e., such as the House Impeachment proceedings, some of which are available on-line), and would be available to Senators in any event.

Under these principles, therefore, the House requests that the Senate Committee rule that the Fifth Circuit Hearing testimony and exhibits relating to Judge Porteous, as well as the House Impeachment Task Force testimony and exhibits relating to Judge Porteous, all of which are in the public domain, be admissible "for truth," and that the

weight of such evidence be left to the Senators as they consider that evidence. The admission of the Fifth Circuit Hearing testimony fits squarely within the Claiborne, Nixon and Hastings precedents. Judge Porteous either cross-examined or called witnesses at that hearing, and it would be nothing more than gamesmanship for Judge Porteous, having, for example, agreed to the admission of certain documents and transcripts at that hearing, to object to their admission before the Senate.

IV. CONCLUSION

For all the reasons discussed above, the House requests that Impeachment Trial Committee rule that the evidentiary records from the Fifth Circuit Special Committee Hearing and the Impeachment Task Force Hearings may be admitted at trial.[26] At present, the testimony of certain witnesses as well as certain documentary materials which were introduced in prior proceedings have been separately designated as discrete exhibits, and, at the appropriate time, the House would formally designate these materials by exhibit number and move their introduction.[27]

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[26]Only a very small portion of the Fifth Circuit proceedings are not squarely relevant to this Impeachment proceeding. For example, the Fifth Circuit proceeding addressed whether Judge Porteous committed a fraud in a bank loan application, and one witness was called (a banker named Edward Butler) who testified on this topic. The testimony from the Fifth Circuit hearing associated with this issue has not been marked as a House Exhibit, and the House does not propose to seek its admission. With this exception, it is the House's view that all the other testimonial materials from the Fifth Circuit would be relevant.

[27]Many of these exhibits introduced before the Fifth Circuit Special Committee Exhibit List are also marked as potential trial exhibits on the House's exhibit list. In many instances, the House has selected a few pages from a broader document collection, such as specific casino records, so as to narrow the volume of records that will be admitted. The House proposes to introduce only the pages from document collections that are relevant. Indeed, most of these Fifth Circuit exhibits are business records and would be admissible regardless of their status as Fifth Circuit exhibits.

WHEREFORE, the House requests that the complete evidentiary records of the Fifth Circuit Proceeding and the Task Force Impeachment Hearings be admissible; that, in advance of the trial, the Senate Committee designate a date certain for both parties to designate transcripts and exhibits for admission; and that either party may object to the other party's designation on grounds other than the fact that the materials are being offered "for truth."

Respectfully submitted,

THE UNITED STATES HOUSE OF REPRESENTATIVES

By

Adam Schiff, Manager

Bob Goodlatte, Manager

Alan I. Baron
Special Impeachment Counsel

Managers of the House of Representatives: Adam B. Schiff, Bob Goodlatte, Zoe Lofgren, Henry C. "Hank" Johnson, F. James Sensenbrenner, Jr.

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